Organized farmers

STATEMENT OF THE
NEW MEXICO FARM AND LIVESTOCK BUREAU

TO THE
HOUSE SUBCOMMITTEE ON AGRICULTURE

Presented by:

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Accompanied by:

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We welcome the opportunity to express our views on the Extension of Public Law 78 under consideration by this committee.

County Farm Bureaus in New Mexico, as contracting associations, contract practically all of the Mexican National laborers employed in our state; however, there are three independent contracting associations. Over 50% of the farmers and ranchers in the New Mexico Farm and Livestock Bureau are dependent upon the employment of Mexican national labor to grow and harvest their crops. In 1957 approximately 20,000 Mexican National laborers were employed in New Mexico.

We feel that Public Law 78 should be extended without amendment for a term of two years; provided that there are adequate committee recommendations to clarify intent of the law for purposes of administration. Protection is given domestic labor under Section 503 of Public Law 78 which makes the law inoperative when domestic labor is available.

Administrative rulings by the Department of Labor in the past have been such that we feel they are contrary to the intent of Congress and tend to make the program unworkable. In the last few years, the original intent of the law has been obscured in the maze of interpretations, instructions and operating standards promulgated by the Department of Labor. It would appear that the Department of Labor is seeking to accomplish by administrative rulings requirements which Congress has refused to sanction.

Broadly considered, the objectives outlined in Public Law 78 are as follows:

(1) For the purpose of assisting in the production of agricultural commodities.

(2) To assist in the elimination of the "wet-back" problem, and

(3) To set out administrative authority and the mechanics of protecting the rights of domestics, braceros, and the federal government.

The law has proven to be entirely adequate for all three objectives. Without the help of some four or five hundred thousand Mexican nationals employed in the United States, the situation in agriculture would have been far more serious during the past few years than it has been.

The major objective of eliminating the "wet-back" problem has registered amazing success largely because of farmer cooperation prompted by farmer confidence in the good faith of their government.

The rights of domestics have been fully protected, if not enhanced. The rights of braceros have been studiously protected, even to the extent of protecting their rights in new fields, such as "housing regulations" not previously regarded as a right. The right of the federal government has been fully protected; however, the rights of the employer have not been guaranteed to any great extent by the law.

The law was NOT intended to:

(1) Develop housing standards more rigorous than those normally provided for domestic labor.

(2) To set up procedures for raising wages in agriculture.

(3) To force farmers to serve as residual employers for industrial labor.

(4) To create an onerous and burdensome system of record keeping and clerical detail.

(5) To introduce rigidities into the hiring and conditions of employment of domestics.

We believe there is a definite need for Public Law 78 to be extended to furnish seasonal and year round agricultural labor in New Mexico and other areas of the United States, and to continue the control of the "wet-back" problem in border areas. Approximately 20,000 Mexican National laborers were employed by farmers and ranchers in New Mexico during 1957, primarily for "stoop" labor. Our farmers and ranchers have found that local labor is not interested in working on farms and ranches when they can find employment at our many government projects and army installations. There are six major defense installations in New Mexico, which primarily carry on rocket and missile development, and in addition we have expanding uranium, oil and potash industries in New Mexico which continue to drain the labor supply from our farms and ranches.

Contracting associations in New Mexico have done positive recruiting in other states, as directed by the Department of Labor, where agricultural and industrial workers were reported to be available. We have asked the New Mexico College of Agriculture and Mechanic Arts to make an unbiased survey

on the results of out-of-state recruiting done by contracting associations for domestic labor. Attached is a copy of the results of the survey as compiled by the Economics Department of the college.

At this point we would like to bring out that recruiting efforts have been expensive and non-productive as shown by the survey.

There is only a limited amount of unemployment in New Mexico, and efforts have been made by the New Mexico Employment Security Commission and by contracting associations to recruit this labor for use in agriculture with little success. Increased industrial development and defense installations in the state have taken more and more labor from the farms and ranches.

The plain truth is, a great percent of our domestic labor will not perform "stoop" agriculture labor. No evidence has been shown that any reasonable increase in agricultural wage rates will attract industrial labor to agriculture.

Because of the peculiar nature of agriculture, it is necessary to have a reliable source of labor for both year round and seasonal labor at the time and place needed. A farmer works with the various seasons, performing various phases of his farm operation in each season, and until the harvest, one operation is contingent upon the other. The failure to accomplish any one of the farming operations before the harvest can reduce or eliminate the harvest, which is the reward of all our efforts. The harvesting of many crops must be performed within a period of a very few days, or, because of the perishable nature of the crop, a very severe loss can result.

Past experience has shown that in the agriculture labor deficiency areas, recruiting of idle, industrial or agricultural workers from far or near will not afford even a small percentage of the labor required to perform the tasks at the proper time.

Public Law 78 has provided a means of obtaining labor where it has been found that domestic labor is not available for the task at hand.

In conclusion, we would like to ask the committee to make recommendations to clairfy the administration of the law on the following:

(1) MINIMUM WAGE FOR TASK PERFORMED ON PIECE RATE BASIS.

We respectfully request the committee to take recognition of the fact that any principle which establishes a guaranteed minimum wage for any part of a crew of workers is a departure from the incentive system which is the heart of the piece rate system for unsupervised work. The preservation of the piece rate payment system is a "must" for many unsupervised agricultural tasks because of the conditions of the task. When any part of a crew is guaranteed a minimum wage on a piece rate basis that does not give consideration to the worker's ability, experience or skill, and willingness to work, the bench mark for determining if the piece rate basis is adequate becomes unworkable, and these should be considered when determining if piece rates are adequate to provide the desired conditions and wages necessary to meet the conditions set forth in the contract; and if these are not considered, we feel that it is contrary to Article 15 of Public Law 78 which requires that Mexican workers shall be paid not less than the prevailing wage for domestic workers in the area.

The administrative ruling in Letter No. 885, dated May 21, 1958, to all employment security agencies requires that 90% of the foreign workers be required to earn the target wage or more. It further states that the burden of proof that a worker is not able, willing, and qualified, or not working with due diligence rests upon the employer. Just how an employer would establish this proof for unsupervised work is not mentioned. If at least 90% of the workers in a crew do not earn the target wage, the employer is presumed to be guilty of providing sub-standard rates and conditions and must prove his innocence. This is contrary to the American concept of justice. We feel that as set out in Public Law 78 the earnings of the qualified domestic worker should be the yard stick by which it is determined if the wages and conditions are adequate to allow the foreign worker to earn the target wage. If at any time, the earnings of a group of foreign workers are used as a yard stick and these workers are aware of the fact that if a certain percent do not earn the target wage an automatic wage raise would be required, it would be fairly certain that the required percent would not make the target wage even though the wages and conditions are adequate, and under the ruling in Letter No. 885, a raise in wages would be required.

Attached is a copy of a survey made by the New Mexico A & M A College in regard to average hourly earnings. This will serve to point out that even though the average for all the crew was well above the target wage that the application of the 90-10 formula would require an automatice raise in wages.

(2) FORMULA USED TO ESTABLISH PREVAILING WAGE.

The Secretary of Labor shall find the prevailing wage rate or rates actually paid to domestic workers in the area of employment and shall report such rate or rates as the prevailing wage to be paid to Mexican Workers without use of formula or alteration of such rates. When such rates are being paid to Mexican Nationals for the same work in the same area under the same working conditions, the employer shall be considered in compliance with the prevailing wage requirements of the International Agreement and the Standard Work Contract, as amended.

(3) BASIC REQUIREMENTS FOR CERTIFICATION.

We recommend that the committee direct the Department of Labor to follow Section 503, Public Law 78 as written, in meeting requirements for certification. We feel that the Department of Labor is now issuing administrative directives which have no foundation in the law, and which we feel are not the intent of the Congress.

(4) USE OF FOREIGN WORKERS IN YEAR ROUND OR SEASONAL JOBS.

There are many jobs falling into these classifications for which there are not enough qualified domestic laborers available. Efforts to recruit out of state labor have failed to produce sufficient workers to fill these jobs. Migratory labor has not proven to be adequate in the past. Research and army installations, and other industries, have drawn off nearly all local labor. Farmers and ranchers must have year round and seasonal labor to successfully produce and harvest their crops. We feel that it is proper to bring in contracted foreign workers to perform these year round and seasonal tasks.

(5) HOUSING.

We feel that the committee should direct the Department of Labor to cease forcing users of Mexican National labor to furnish housing to Mexican national laborers that include standards more rigorous than those usually provided domestic agriculture labor. The suitability of domestic housing should be left to the farmer and the domestic laborer to agree upon.